

**REMARKS**

Reconsideration of this application is respectfully requested in light of the foregoing amendment and the following remarks:

**I. STATUS**

Claims 1-14 are currently pending, of which claim 1 is independent.

Claim 2 is withdrawn from consideration.

Claims 1-14 stand rejected under 35 U.S.C. § 112, first paragraph.

Claims 1-14 stand rejected under 35 U.S.C. § 112, second paragraph.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,328,041 to *Hook et al.* and U.S. Patent No. 3,930,413 to *Laird et al.*

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,186,997 to *Gabbard et al.*

Claims 1 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 478,873 to *Koehler*.

Claims 1, 13 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,416,308 to *Bower*.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,328,904 to *Iverson*.

Claims 1 and 12-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,078,686 to *Karesh* in view of *Iverson*.

By this Amendment, claims 1, 3-5 and 10-14 have been amended. No new matter has been added by this Amendment.

## **II. OBJECTIONS TO SPECIFICATION**

The abstract stands objected to as containing more than one paragraph and the objectionable phrase “the invention relates to.” The abstract has been amended so that it is now one paragraph and does not contain the phrase “the invention relates to.” Accordingly, withdrawal of this objection is respectfully requested.

The title stands objected to as not being descriptive. The title has been amended to read “Container Equipped with at Least One Deformable Closure Device.” Applicants submit that this title is clearly indicative of the claimed invention. Accordingly, withdrawal of this objection is respectfully requested.

The specification stands objected to as failing to provide a proper antecedent basis for “a closure member” in claim 2. Claim 2 has been cancelled without prejudice or disclaimer. Moreover, the specification provides the proper antecedent basis for “a closure member” (as now recited in amended claim 1) for example at page 7, lines 4-5. Accordingly, withdrawal of this objection is respectfully requested.

The disclosure stands objected to because of various informalities. The specification has been amended to correct these informalities. Accordingly, withdrawal of this objection is respectfully requested.

## **III. REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH**

Claims 1-14 stand rejected under 35 U.S.C. § 112, first paragraph as containing subject matter that was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. This rejection is respectfully traversed in view of the following comments.

The Office Action alleges that there is no support for term “elastically” during the opening phase of the closure. However, Applicants respectfully assert that the specification makes clear that the closure mechanism is stretched and deformed during the opening phase, i.e. the introduction on the withdrawing of an object in/from the device. *See*, for example, page 6, lines 35-37; page 7, lines 34-38; page 8, lines 20-22; Figs. 2-3. Fig. 3 shows the closure mechanism in its open state in which the elastically deformable structures 40 have been stretched from their closed state shown in Fig. 2. When an object is introduced into or withdrawn from the closure mechanism, the elastically deformable structures 40 must stretch apart from their closed positions in order to permit entry or exit of the object from the closure mechanism.

Furthermore, Applicants respectfully assert that the specification makes clear that the elastically deformable structures 40 are disposed around the closure member 60. *See*, for example, page 7, lines 12-18; Figs. 3, 6 and 7. On page 7, the specification describes how the closure member 60 passes through the center of the first ring 30 and passes between the elastically deformable structures 40. Thus, the elastically deformable structures 40 surround the closure member 60 restricting the diameter of the closure member 60 and effectively closing the closure device.

It is respectfully submitted that for at least these reasons, claims 1-14 all define allowable subject matter. Withdrawal of the rejection is requested.

#### **IV. REJECTION UNDER 35 U.S.C. § 112, SECOND PARAGRAPH**

Claims 1-14 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed in view of the following comments.

Claim 1 has been amended to incorporate the limitations of dependent claim 2. Claim 2 has been cancelled without prejudice or disclaimer. Claim 1 as amended recites a “closure mechanism” that is comprised of “elastically deformable structures.” As such claim 1 does not invoke 35 U.S.C. § 112, sixth paragraph.

As discussed above, the specification clearly describes how the closure mechanism stretches during the opening phase as well as how the closure member 60 is surrounded by the elastically deformable structures 40. *See* for example, page 6, lines 35-37; page 7, lines 12-18 and 34-38; page 8, lines 20-22; Figs. 2-3, 6 and 7.

Claim 4 has been amended to recite “the rigid peripheral support structure” which has antecedent support in claim 3 as amended. Claim 5 has been amended such that “said object” is not a part of the claim. Claims 12 and 13 have been amended by replacing “it” and “its” with the corresponding noun. Claim 14 has been amended by replacing the term “suitable.”

It is respectfully submitted that for at least these reasons, claims 1-14 all define allowable subject matter. Withdrawal of the rejection is requested.

**V. REJECTIONS UNDER 35 U.S.C. § 102(b)**

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,328,041 to *Hook et al.* ("*Hook*") and U.S. Patent No. 3,930,413 to *Laird et al.* ("*Laird*"). This rejection is respectfully traversed in view of the following comments.

Claim 1 as amended calls for a "container equipped with a closure device that permits a user to manipulate or withdraw an object placed within said container, whereby said closure device has a plane and is comprised of a closure mechanism that can deform elastically radially essentially in the plane of the closure device to change from a closed state of rest under no external stress to an open active state under an external stress, wherein said closure device comprises at least one rigid peripheral support structure attached to which is the closure mechanism that is comprised of elastically deformable structures which intersect each other and are disposed around a closure member in such a way that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed." *Hook* and *Laird* fail to teach or disclose at least the claimed combination of a container equipped with a closure device that comprises at least one rigid peripheral support structure and elastically deformable structures intersecting each other around a closure member such that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed. Neither the closure device in *Hook* or in *Laird* contains elastically deformable structures that intersect each other and are disposed around a closure member. In contrast, the closure device in *Laird* is formed of a single rubber member that closes the passage. *See Laird* at col. 4: 20-26; Fig. 1. Similarly in *Hook*, the closure device is formed from two stopper members,

which do not intersect each other, that close entry to the container. *See Hook* at col. 3: 17- 21;

Fig. 1. Applicants respectfully submit that for at least these reasons, claim 1 is patentable over *Hook* and *Laird*. Withdrawal of the rejection is requested.

Claim 1 also stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,328,904 to *Iverson* ("*Iverson*"). This rejection is respectfully traversed in view of the following comments.

Claim 1 as amended calls for a "container equipped with a closure device that permits a user to manipulate or withdraw an object placed within said container, whereby said closure device has a plane and is comprised of a closure mechanism that can deform elastically radially essentially in the plane of the closure device to change from a closed state of rest under no external stress to an open active state under an external stress, wherein said closure device comprises at least one rigid peripheral support structure attached to which is the closure mechanism that is comprised of elastically deformable structures which intersect each other and are disposed around a closure member in such a way that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed." *Iverson* fails to teach or disclose at least the claimed combination of a container equipped with a closure device that comprises at least one rigid peripheral support structure and elastically deformable structures intersecting each other around a closure member such that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed. The closure device of *Iverson* does not consist of elastically deformable structures that are disposed around a closure member. In contrast, the closure device of *Iverson* consists of

overlapping flaps that close the container with no other closure member. *See Iverson* at col. 3:43-64; Fig. 4. Applicants respectfully submit that for at least these reasons, claim 1 is patentable over *Iverson*. Withdrawal of the rejection is requested.

Claims 1 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 478,873 to *Koehler* ("*Koehler*"). This rejection is respectfully traversed in view of the following comments.

Claim 1 as amended calls for a "container equipped with a closure device that permits a user to manipulate or withdraw an object placed within said container, whereby said closure device has a plane and is comprised of a closure mechanism that can deform elastically radially essentially in the plane of the closure device to change from a closed state of rest under no external stress to an open active state under an external stress, wherein said closure device comprises at least one rigid peripheral support structure attached to which is the closure mechanism that is comprised of elastically deformable structures which intersect each other and are disposed around a closure member in such a way that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed." *Koehler* fails to teach or disclose at least the claimed combination of a container equipped with a closure device that comprises at least one rigid peripheral support structure and elastically deformable structures intersecting each other around a closure member such that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed. The closure device in *Koehler* does not consist of any elastically deformable structures. Instead, the closure device in *Koehler* consists of a slot with edges that are normally in contact, but that

are separated latterly when the sides of the container are compressed. *See Koehler* at col. 1: 38-45; Figs. 3-4. Applicants respectfully submit that for at least these reasons, claim 1 is patentable over *Koehler*. Withdrawal of the rejection is requested.

For at least the reasons discussed above with regard to independent claim 1, Applicants submit that dependent claim 14 is patentable over *Koehler*. Withdrawal of the rejection is requested.

Claims 1, 13, and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,416,308 to *Bower* ("*Bower*"). This rejection is respectfully traversed in view of the following comments.

Claim 1 as amended calls for a "container equipped with a closure device that permits a user to manipulate or withdraw an object placed within said container, whereby said closure device has a plane and is comprised of a closure mechanism that can deform elastically radially essentially in the plane of the closure device to change from a closed state of rest under no external stress to an open active state under an external stress, wherein said closure device comprises at least one rigid peripheral support structure attached to which is the closure mechanism that is comprised of elastically deformable structures which intersect each other and are disposed around a closure member in such a way that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed." *Bower* fails to teach or disclose at least the claimed combination of a container equipped with a closure device that comprises at least one rigid peripheral support structure and elastically deformable structures intersecting each other around a closure member such that when the elastically



deformable structures are in a state of rest under no external stress, the closure member is closed.

The closure device in *Bower* does not consist of elastically deformable structures that intersect each other and are disposed around a closure member. Instead, the closure device of *Bower* consists of two abutting flexible members that do not intersect each other. See *Bower*, Figs. 2 and 4. Applicants submit that for at least these reasons, claim 1 is patentable over *Bower*.

Withdrawal of the rejection is requested.

For at least the reasons discussed above with regard to independent claim 1, Applicants submit that dependent claims 13 and 14 are patentable over *Bower*. Withdrawal of the rejection is requested.

## VI. REJECTION UNDER 35 U.S.C. § 102(e)

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,186,997 to *Gabbard et al.* ("*Gabbard*"). This rejection is respectfully traversed in view of the following comments.

Claim 1 as amended calls for a "container equipped with a closure device that permits a user to manipulate or withdraw an object placed within said container, whereby said closure device has a plane and is comprised of a closure mechanism that can deform elastically radially essentially in the plane of the closure device to change from a closed state of rest under no external stress to an open active state under an external stress, wherein said closure device comprises at least one rigid peripheral support structure attached to which is the closure mechanism that is comprised of elastically deformable structures which intersect each other and

are disposed around a closure member in such a way that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed.” *Gabbard* fails to teach or disclose at least the claimed combination of a container equipped with a closure device that comprises at least one rigid peripheral support structure and elastically deformable structures intersecting each other around a closure member such that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed. The closure device of *Gabbard* does not consist of elastically deformable structures that intersect each other and are disposed around a closure member. Instead, the closure device of *Gabbard* consists of one elastomeric diaphragm and no other closure members. *See Gabbard* at col. 4:62-67; Fig. 4A. Applicants submit that for at least these reasons, claim 1 is patentable over *Gabbard*. Withdrawal of the rejection is requested.

## VII. REJECTION UNDER 35 U.S.C. § 103(a)

Claims 1 and 12-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,078,686 to *Karesh* (“*Karesh*”) in view of *Iverson*. This rejection is respectfully traversed in view of the following comments.

Claim 1 as amended calls for a “container equipped with a closure device that permits a user to manipulate or withdraw an object placed within said container, whereby said closure device has a plane and is comprised of a closure mechanism that can deform elastically radially essentially in the plane of the closure device to change from a closed state of rest under no external stress to an open active state under an external stress, wherein said closure device

comprises at least one rigid peripheral support structure attached to which is the closure mechanism that is comprised of elastically deformable structures which intersect each other and are disposed around a closure member in such a way that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed.” Neither *Iverson* nor *Karesh*, whether taken singly or combined, teach or disclose at least the claimed combination of a container equipped with a closure device that comprises at least one rigid peripheral support structure and elastically deformable structures intersecting each other around a closure member such that when the elastically deformable structures are in a state of rest under no external stress, the closure member is closed. As discussed above, the closure device of *Iverson* consists of overlapping flaps that close the container with no other closure member. Furthermore, as acknowledged in the office action, *Karesh* contains no teaching of elastic deformation of the closure. MPEP § 2143.03 instructs that “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggest by the prior art. Applicants submit that for at least these reasons, claim 1 is patentable over *Karesh* in view of *Iverson*. Withdrawal of the rejection is requested.

For at least the reasons discussed above with regard to independent claim 1, Applicants submit that dependent claims 12-14 are patentable over *Karesh* in view of *Iverson*. Withdrawal of the rejection is requested.

### VIII. CONCLUSION


It is respectfully submitted that for at least the above noted reasons, all of the pending claims in the above-identified application are now in condition for allowance. If after consideration of this amendment, the Examiner believes that any outstanding issues remain, she is invited to contact applicants' attorney at the telephone number below to expedite prosecution.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. **This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).**

Attached hereto is a marked-up version of the changes made to the claims by the current amendments. The attached page is captioned, "Version with Markings to Show Changes Made."

Respectfully submitted,

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE SPECIFICATION:**

The title has been replaced with the following:

Container Equipped With At Least One **Deformable** Closure Device

The abstract has been replaced with the following paragraph:

[~~The invention relates to~~] A container [(4)] equipped with a closure device [(10)] that allows an object [(100)] to be placed in said container [(4)], particularly for the purposes of manipulating it, or allows it to be withdrawn from said container, the closure device [(10)] having a plane and comprising a closure mechanism [(40)] that can deform elastically to change from a closed state of rest under no external stress to an open active state under an external stress. [~~This container is characterized in that the~~] The closure [~~means~~] **mechanism** [(40)] can deform elastically **and radially** essentially in the plane of the closure device [(10)].

**IN THE CLAIMS:**

Claim 2 has been cancelled without prejudice or disclaimer.

Claims 1, 3-5 and 10-14 have been amended as follows:

1. (Twice Amended) A container equipped with a closure device that permits a user to manipulate or withdraw an object placed within said container, wherein said closure device has a plane and is comprised of a closure [~~means~~] **mechanism** that can deform elastically essentially in

the plane of the closure device to change from a closed state of rest under no external stress to an open active state under an external stress[-] **wherein the closure device comprises at least one rigid peripheral support structure attached to which is the closure mechanism that is comprised of elastically deformable structures which intersect each other and surround a closure member such that when the elastically deformable structures are in a state of rest under no external stress the closure member is closed.**

3. (Twice Amended) The container as claimed in claim [2] **1**, wherein the **rigid** peripheral **support** structure is a rigid frame on which the elastically deformable [~~means~~] **structures** are stretched between two roughly opposite points.

4. (Twice Amended) The container as claimed in claim 3, wherein the[;-] **rigid** peripheral **support** structure comprises at least one ring having an inside diameter D and a center C, **and the** [ - ] elastically deformable [~~means~~] **structures** are elastic bands attached in groups of two juxtaposed elastic bands and fixed to the ring at their diametrically opposed ends.

5. (Twice Amended) The container as claimed in claim 4, wherein the closure member is a sleeve made of flexible material having a diameter D and a length of at least twice this diameter, each end of the sleeve passes through each pair of elastic bands in the center C of the ring, where the sleeve is contracted radially in the closed rest state of the device, or defines a single through opening for the object in the open state of the device, in which state the elastic bands are deformed radially [~~by the passage of said object~~].

10. (Twice Amended) The container as claimed in claim 5, wherein the elastic bands are eight in number and juxtaposed and attached in pairs distributed in such a way as to pass

through the center of their **corresponding** supporting ring so as to form in the **respective** supporting ring eight essentially identical sectors.

11. (Twice Amended) The container as claimed in claim 5, wherein the elastic bands are under tension on their **corresponding** supporting ring in the closed state of the device.

12. (Twice Amended) The container as claimed in claim 1, wherein ~~its~~ **said** **container** [shape] is [that of] a straight or curved cylinder [~~and that it possesses~~] **provided with** a closure device at each end.

13. (Twice Amended) The container as claimed in claim 1, [~~wherein it includes~~] **further including** at least a part made of a transparent material.

14. (Twice Amended) The container as claimed in claim 1, wherein the container is made of materials [~~suitable for~~] **adapted for being used under** weightless conditions.